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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
08/877,684	06/17/1997	GEORGE ALAN VAUGHAN	96B035/2	6303

23455 7590 11/17/2003

EXXONMOBIL CHEMICAL COMPANY
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EXAMINER

PASTERCZYK, JAMES W

ART UNIT	PAPER NUMBER
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1755

DATE MAILED: 11/17/2003

46

Please find below and/or attached an Office communication concerning this application or proceeding.

CLO 46

Office Action Summary

Application No.

08/877,684

Applicant(s)

VAUGHAN ET AL.

Examiner

J. Pasterczyk

Art Unit

1755

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 05 November 2003.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 13, 17-20, 30, 33, 35, 36, 39-66, 70-74, 99 and 103-117 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 13, 17-20, 30, 33, 35, 36, 39-66, 70-74, 99 and 103-117 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. §§ 119 and 120

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 13) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application) since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.
- a) ☐ The translation of the foreign language provisional application has been received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121 since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____
- 4) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

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1. This Office action is in response to the amendment filed 11/5/03 and refers to the Office action mailed 8/5/03.

2. Claims 17, 40, 99, 105 and 115-117 are objected to because of the following informalities: in claim 17, add a slash between "and" and "or" in the last line; in claim 40, delete "the" before "M"; in claim 99, it is not clear if the boron compound recited is the activator of claim 13 or an additional reagent; in claim 105, change the formulae to $--TeOF_6^-$ -- and $--AsF_6^-$ -- respectively. In claims 115-117 the ratios are based on the amount of transition metal compound; this is in contrast with claim 13 which bases its ratio on the amount of transition metal, not the compound. Appropriate correction is required.

3. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

4. Claims 13, 17-20, 30, 33, 35, 36, 39-66, 70-74, 99 and 103-117 are rejected under 35 U.S.C. 102(e) as anticipated by or, in the alternative, under 35 U.S.C. 103(a) as obvious over Brookhart as cited in and for the reasons of record given in paragraph 7 of the previous Office action.

5. Claims 13, 17-20, 30, 33, 35, 36, 39-66, 70-74, 99 and 103-117 are rejected under 35 U.S.C. 103(a) as obvious over Brookhart in view of either of Johnson or Drent as cited in and for the reasons of record given in paragraph 8 of the previous Office action.

6. Applicant's arguments filed 11/5/03 have been fully considered but they are not persuasive.

Brookhart at col. 71-73 discloses that its catalyst can make polymers having a wide variety of physical characteristics. In addition, there are 536 examples given in Brookhart;

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applicants focus on only one of them in attempting to argue that this reference teaches away from their combination of the prior art's catalyst compound, a support, and a cocatalyst with a limit on the amount of catalyst on the support. It is conventional to change the loading of a catalyst on a support, particularly if the catalyst is expensive to produce as these likely are. In addition, applicants have shown no data of their own demonstrating that the minimum catalyst loading of Brookhart or either of the teaching references results in unexpected benefits, or that it is the loading amount alone which may result in such unexpected benefits as opposed to other variables which one of ordinary skill in the art would have known to vary, e.g. monomer dwell time in the reactor, monomer concentration, temperature, hydrogen concentration. In addition, applicants argue only for silica, yet their independent claim is to a solid support, hence the argument is not commensurate in scope with the claim, nor does it address the other supports taught by the prior art, in particular the Drent reference.

7. THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.

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8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to J. Pasterczyk whose telephone number is 703-308-3497. The examiner can normally be reached on M-F from 9 to 5:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Mark Bell, can be reached on (703) 308-3823. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-0661.



JP

11/12/03



Mark L. Bell
Supervisory Patent Examiner
Technology Center 1700